

CHALOS, O'CONNOR & DUFFY, LLP  
Attorneys for Plaintiff,  
DS Rendite-Fonds Nr. 62 MS Cape Cook GmbH & Co. Containerschiff KG  
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Owen F. Duffy (OD-3144)  
George E. Murray (GM-4172)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JUDGE HOLWELL

-----X  
DS RENDITE-FONDS NR. 62 MS CAPE COOK  
GMBH & CO. CONTAINERSCHIFF KG,

Plaintiff,

v.

FAIRWIND SHIPPING COMPANY LIMITED,

Defendant.  
-----X

STATE OF NEW YORK :  
: ss.  
COUNTY OF NASSAU :

07 CIV 3822  
07 CV

**ATTORNEY AFFIDAVIT  
THAT DEFENDANT  
CANNOT BE FOUND  
WITHIN THE DISTRICT**

This affidavit is executed by the attorney for the Plaintiff, DS Rendite-Fonds Nr. 62 MS Cape Cook GmbH & Co. Containerschiff KG (hereinafter "RENDITE"), in order to secure the issuance of a Summons and Process of Attachment and Garnishment in the above-entitled, *in personam*, Admiralty cause.

Owen F. Duffy, being first duly sworn, deposes and states:

1. I am a partner of the firm of Chalos, O'Connor & Duffy LLP representing Plaintiff, RENDITE, in this case.

2. I have personally inquired or have directed inquiries into the presence of Defendant FAIRWIND SHIPPING COMPANY LIMITED in this District.

3. I have personally checked with the office of the Secretary of State of the State of New York, using the Secretary of State's Division of Corporations database, and I have determined that, as of May 15, 2007, the Defendant FAIRWIND SHIPPING COMPANY LIMITED is not incorporated pursuant to the laws of New York, is not qualified to conduct business within the State of New York and has not nominated agents for the service of process within New York because the Secretary of State of the State of New York has no records for the Defendant FAIRWIND SHIPPING COMPANY LIMITED.

4. I have inquired of Verizon Telephone Company whether the Defendant FAIRWIND SHIPPING COMPANY LIMITED can be located within this District. The Verizon Telephone Company has advised me that the Defendant does not have any telephone number listing within this District.

5. I have further consulted with several other telephone directories on the internet, and I have found no separate telephone listing or address for the Defendant FAIRWIND SHIPPING COMPANY LIMITED within this District.

6. I have further made several searches on the internet with various search engines and maritime websites, and I have found no indication that the Defendant FAIRWIND SHIPPING COMPANY LIMITED can be found within this District.

7. In that I have been able to determine that the Defendant FAIRWIND SHIPPING COMPANY LIMITED is not based in the United States of America and that I have found no indication that the Defendant FAIRWIND SHIPPING COMPANY

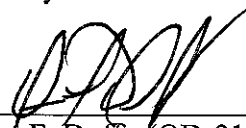
LIMITED can be found within this District, I have formed a good faith belief that the Defendant FAIRWIND SHIPPING COMPANY LIMITED does not have sufficient contacts or business activities within this District to defeat maritime attachment under Rule B of the Supplemental Rules for Admiralty and Maritime Claims as set forth in the Federal Rules of Civil Procedure.

8. It is my belief, based upon my own investigation that the Defendant cannot be found within this District for the purposes of Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure.

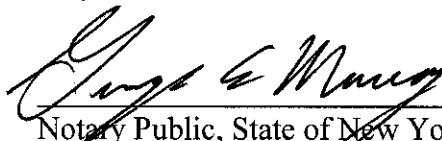
Dated: Port Washington, New York  
May 15, 2007

CHALOS, O'CONNOR & DUFFY, LLP  
Attorneys for Plaintiff

By:

  
\_\_\_\_\_  
Owen F. Duffy (OD-3144)  
366 Main Street  
Port Washington, New York 11050  
Tel: (516) 767-3600  
Fax: (516) 767-3605

Subscribed and sworn to before me this  
May 15, 2007

  
\_\_\_\_\_  
Notary Public, State of New York

**GEORGE E. MURRAY**  
**Notary Public, State of New York**  
**No. 02MU6108120**  
**Qualified in New York County**  
**Commission Expires April 12, 2008**